

“CHAPTER 121—DOCUMENTATION OF VESSELS

“SUBCHAPTER I—GENERAL

“Sec.

- “12101. Definition and related terms in other laws.
- “12102. Vessels requiring documentation.
- “12103. General eligibility requirements.
- “12104. Applications for documentation.
- “12105. Issuance of documentation.
- “12106. Surrender of title and number.
- “12107. Wrecked vessels.

“SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

- “12111. Registry endorsement.
- “12112. Coastwise endorsement.
- “12113. Fishery endorsement.
- “12114. Recreational endorsement.
- “12115. Temporary endorsement for vessels procured outside the United States.
- “12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands.
- “12117. Oil spill response vessels.
- “12118. Owners engaged primarily in manufacturing or mineral industry.
- “12119. Owners engaged primarily in leasing or financing transactions.
- “12120. Liquefied gas tankers.
- “12121. Small passenger vessels and uninspected passenger vessels.

“SUBCHAPTER III—MISCELLANEOUS

- “12131. Command of documented vessels.
- “12132. Loss of coastwise trade privileges.
- “12133. Duty to carry certificate on vessel and allow examination.
- “12134. Evidentiary uses of documentation.
- “12135. Invalidation of certificates of documentation.
- “12136. Surrender of certificates of documentation.
- “12137. Recording of vessels built in the United States.
- “12138. List of documented vessels.
- “12139. Reports.

“SUBCHAPTER IV—PENALTIES

- “12151. Penalties.
- “12152. Denial or revocation of endorsement for non-payment of civil penalty.

“SUBCHAPTER I—GENERAL

3 **“§ 12101. Definition and related terms in other laws**

4 “(a) DEFINITION.—In this chapter, a vessel is ‘rebuilt’ in the United
 5 States only if the entire rebuilding, including the construction of any major
 6 component of the hull or superstructure, is done in the United States.

7 “(b) RELATED TERMS IN OTHER LAWS.—When the following terms are
 8 used in a law, regulation, document, ruling, or other official act referring
 9 to the documentation of a vessel, the following definitions apply:

10 “(1) REGISTRY ENDORSEMENT.—The terms ‘certificate of registry’,
 11 ‘register’, and ‘registry’ mean a certificate of documentation with a reg-
 12 istry endorsement issued under this chapter.

13 “(2) COASTWISE ENDORSEMENT.—The terms ‘license’, ‘enrollment
 14 and license’, ‘license for the coastwise (or coasting) trade’, and ‘enroll-
 15 ment and license for the coastwise (or coasting) trade’ mean a certifi-
 16 cate of documentation with a coastwise endorsement issued under this
 17 chapter.

1 “(3) YACHT.—The term ‘yacht’ means a recreational vessel even if
2 not documented.

3 **“§ 12102. Vessels requiring documentation**

4 “(a) IN GENERAL.—Except as otherwise provided, a vessel may engage
5 in a trade only if the vessel has been issued a certificate of documentation
6 with an endorsement for that trade under this chapter.

7 “(b) VESSELS LESS THAN 5 NET TONS.—A vessel of less than 5 net tons
8 may engage in a trade without being documented if the vessel otherwise sat-
9 isfies the requirements to engage in the particular trade.

10 “(c) BARGES.—A barge qualified to engage in the coastwise trade may
11 engage in the coastwise trade, without being documented, on rivers, harbors,
12 lakes (except the Great Lakes), canals, and inland waters.

13 **“§ 12103. General eligibility requirements**

14 “(a) IN GENERAL.—Except as otherwise provided, a certificate of docu-
15 mentation for a vessel may be issued under this chapter only if the vessel
16 is—

17 “(1) wholly owned by one or more individuals or entities described
18 in subsection (b);

19 “(2) at least 5 net tons as measured under part J of this subtitle;
20 and

21 “(3) not documented under the laws of a foreign country.

22 “(b) ELIGIBLE OWNERS.—For purposes of subsection (a)(1), the follow-
23 ing are eligible owners:

24 “(1) An individual who is a citizen of the United States.

25 “(2) An association, trust, joint venture, or other entity if—

26 “(A) each of its members is a citizen of the United States; and

27 “(B) it is capable of holding title to a vessel under the laws of
28 the United States or a State.

29 “(3) A partnership if—

30 “(A) each general partner is a citizen of the United States; and

31 “(B) the controlling interest in the partnership is owned by citi-
32 zens of the United States.

33 “(4) A corporation if—

34 “(A) it is incorporated under the laws of the United States or
35 a State;

36 “(B) its chief executive officer, by whatever title, and the chair-
37 man of its board of directors are citizens of the United States; and

38 “(C) no more of its directors are noncitizens than a minority
39 of the number necessary to constitute a quorum.

40 “(5) The United States Government.

41 “(6) The government of a State.

“(c) TEMPORARY CERTIFICATES PRIOR TO MEASUREMENT.—Notwithstanding subsection (a)(2), the Secretary may issue a temporary certificate of documentation for a vessel before it is measured.

“§ 12104. Applications for documentation

“(a) IN GENERAL.—An application for a certificate of documentation or endorsement under this chapter must be filed by the owner of the vessel. The application must be filed in the manner, be in the form, and contain the information prescribed by the Secretary.

“(b) APPLICANT’S IDENTIFYING INFORMATION.—The Secretary shall require the applicant to provide—

“(1) if the applicant is an individual, the individual’s social security number; or

“(2) if the applicant is an entity—

“(A) the entity’s taxpayer identification number; or

“(B) if the entity does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the entity and who signs the application.

“§ 12105. Issuance of documentation

“(a) IN GENERAL.—Except as provided in section 12152 of this title, the Secretary, on receipt of a proper application, shall issue a certificate of documentation or a temporary certificate of documentation for a vessel satisfying the requirements of section 12103 of this title. The certificate shall contain each endorsement under subchapter II of this chapter for which the owner applies and the vessel is eligible.

“(b) TEMPORARY CERTIFICATES FOR RECREATIONAL VESSELS.—The Secretary may delegate, subject to the supervision and control of the Secretary and under terms prescribed by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel eligible under section 12103 of this title. A temporary certificate issued under this subsection is valid for not more than 30 days.

“(c) INFORMATION TO BE INCLUDED IN CERTIFICATE.—A certificate of documentation shall—

“(1) identify and describe the vessel;

“(2) identify the owner of the vessel; and

“(3) contain additional information prescribed by the Secretary.

“(d) PROCEDURES TO ENSURE INTEGRITY AND ACCURACY.—The Secretary shall prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation.

6 “(b) VESSELS COVERED BY PREFERRED MORTGAGE.—The Secretary
7 may approve the surrender under subsection (a) of a certificate of title for
8 a vessel covered by a preferred mortgage under section 31322(d) of this title
9 only if the mortgagee consents.

11 “(a) REQUIREMENTS.—A vessel is a wrecked vessel under this chapter if
12 it—

15 “(2) has undergone repairs in a shipyard in the United States equal
16 to at least 3 times the appraised salvage value of the vessel.

20 “SUBCHAPTER II—ENDORSEMENTS AND SPECIAL
21 DOCUMENTATION

25 “(b) AUTHORIZED ACTIVITY.—A vessel for which a registry endorsement
26 is issued may engage in foreign trade or trade with Guam, American
27 Samoa, Wake, Midway, or Kingman Reef.

35 “(2) REQUIREMENTS FOR TRUST TO QUALIFY.—

38 “(i) each trustee is a citizen of the United States; and

“(ii) the application for documentation of the vessel includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust

that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

“(B) AUTHORITY OF NON-CITIZENS.—If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

“(C) OWNERSHIP BY NON-CITIZENS.—Subparagraphs (A) and (B) do not prohibit a person that is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

“(3) CITIZENSHIP OF PERSON CHARTERING VESSEL.—If a person chartering a vessel from a trust that qualifies under paragraph (2) is a citizen of the United States under section 50501 of this title, the vessel is deemed to be owned by a citizen of the United States for purposes of that section and related laws, except subtitle B of title VI of the Merchant Marine Act, 1936.

“§ 12112. Coastwise endorsement

“(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

“(1) satisfies the requirements of section 12103 of this title;

“(2)(A) was built in the United States; or

“(B) if not built in the United States—

“(i) was captured in war by citizens of the United States and lawfully condemned as prize;

“(ii) was adjudged to be forfeited for a breach of the laws of the United States; or

“(iii) qualifies as a wrecked vessel under section 12107 of this title; and

“(3) otherwise qualifies under the laws of the United States to engage in the coastwise trade.

“(b) AUTHORIZED ACTIVITY.—Subject to the laws of the United States regulating the coastwise trade, a vessel for which a coastwise endorsement is issued may engage in the coastwise trade.

“§ 12113. Fishery endorsement

“(a) REQUIREMENTS.—A fishery endorsement may be issued for a vessel that—

“(1) satisfies the requirements of section 12103 of this title and, if owned by an entity, the entity satisfies the ownership requirements in subsection (c);

“(2) was built in the United States;

“(3) if rebuilt, was rebuilt in the United States;

“(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and

“(5) otherwise qualifies under the laws of the United States to engage in the fisheries.

“(b) AUTHORIZED ACTIVITY.—

“(1) IN GENERAL.—Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.

“(2) USE BY PROHIBITED PERSONS.—A fishery endorsement is invalid immediately if the vessel for which it is issued is used as a fishing vessel while it is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement.

“(c) OWNERSHIP REQUIREMENTS FOR ENTITIES.—

“(1) IN GENERAL.—A vessel owned by an entity is eligible for a fishery endorsement only if at least 75 percent of the interest in the entity, at each tier of ownership and in the aggregate, is owned and controlled by citizens of the United States.

“(2) DETERMINING 75 PERCENT INTEREST.—In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms ‘control’ or ‘controlled’—

“(A) include the right to—

“(i) direct the business of the entity;

“(ii) limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity; or

1 “(iii) direct the transfer, operation, or manning of a vessel
2 with a fishery endorsement; but

3 “(B) do not include the right to simply participate in the activi-
4 ties under clause (A), or the exercise of rights under loan or mort-
5 gage covenants by a mortgagee eligible to be a preferred mortga-
6 gee under section 31322(a) of this title, except that a mortgagee
7 not eligible to own a vessel with a fishery endorsement may only
8 operate such a vessel to the extent necessary for the immediate
9 safety of the vessel or for repairs, drydocking, or berthing changes.

10 “(3) EXCEPTIONS.—This subsection does not apply to a vessel when
11 it is engaged in the fisheries in the exclusive economic zone under the
12 authority of the Western Pacific Fishery Management Council estab-
13 lished under section 302(a)(1)(H) of the Magnuson-Stevens Fishery
14 Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a
15 purse seine vessel when it is engaged in tuna fishing in the Pacific
16 Ocean outside the exclusive economic zone or pursuant to the South
17 Pacific Regional Fisheries Treaty, provided that the owner of the vessel
18 continues to comply with the eligibility requirements for a fishery en-
19 dorsement under the Federal law that was in effect on October 1,
20 1998. A fishery endorsement issued pursuant to this paragraph is valid
21 for engaging only in the activities described in this paragraph.

22 “(d) REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSE-
23 POWER.—

24 “(1) APPLICATION.—This subsection applies to a vessel that—

25 “(A) is greater than 165 feet in registered length;

26 “(B) is more than 750 gross registered tons as measured under
27 chapter 145 of this title or 1,900 gross registered tons as meas-
28 ured under chapter 143 of this title; or

29 “(C) has an engine or engines capable of producing a total of
30 more than 3,000 shaft horsepower.

31 “(2) REQUIREMENTS.—A vessel subject to this subsection is not eli-
32 gible for a fishery endorsement unless—

33 “(A)(i) a certificate of documentation was issued for the vessel
34 and endorsed with a fishery endorsement that was effective on
35 September 25, 1997;

36 “(ii) the vessel is not placed under foreign registry after October
37 21, 1998; and

38 “(iii) if the fishery endorsement is invalidated after October 21,
39 1998, application is made for a new fishery endorsement within
40 15 business days of the invalidation; or

“(B) the owner of the vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after October 21, 1998, and the Secretary of Commerce has approved, conservation and management measures in accordance with the American Fisheries Act (Public Law 105–277, div. C, title II) (16 U.S.C. 1851 note) to allow the vessel to be used in fisheries under the council’s authority.

“(e) VESSELS MEASURING 100 FEET OR GREATER.—

“(1) IN GENERAL.—The Administrator of the Maritime Administration shall administer subsections (c) and (d) with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator on an annual basis to demonstrate compliance with those provisions.

“(2) REGULATIONS.—Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement shall be written in a manner to allow the owner of the vessel to satisfy any annual renewal requirements for a certificate of documentation for the vessel and to comply with this subsection and subsections (c) and (d), and shall not be required to be notarized.

“(3) TRANSFER OF OWNERSHIP.—Transfers of ownership and control of vessels subject to subsection (c) or (d), which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of those provisions, with particular attention given to—

“(A) leases, charters, mortgages, financing, and similar arrangements;

“(B) the control of persons not eligible to own a vessel with a fishery endorsement under subsection (c) or (d), over the management, sales, financing, or other operations of an entity; and

“(C) contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

“(f) VESSELS MEASURING LESS THAN 100 FEET.—The Secretary shall establish reasonable and necessary requirements to demonstrate compliance with subsections (c) and (d), with respect to vessels measuring less than 100

feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate those vessels.

“(g) VESSELS PURCHASED THROUGH FISHING CAPACITY REDUCTION PROGRAM.—A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.

“(h) REVOCATION OF ENDORSEMENTS.—The Secretary shall revoke the fishery endorsement of any vessel subject to subsection (c) or (d) whose owner does not comply with those provisions.

“(i) REGULATIONS.—Regulations to implement subsections (c) and (d) and sections 12151(c) and 31322(b) of this title shall prohibit impermissible transfers of ownership or control, specify any transactions that require prior approval of an implementing agency, identify transactions that do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of that industry, and to the opportunity to form fishery cooperatives.

“§ 12114. Recreational endorsement

“(a) REQUIREMENTS.—A recreational endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

“(b) AUTHORIZED ACTIVITY.—A vessel operating under a recreational endorsement may be operated only for pleasure.

“(c) APPLICATION OF CUSTOMS LAWS.—A vessel for which a recreational endorsement is issued may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Secretary of Homeland Security. However, a recreational vessel is subject to the requirements for reporting arrivals under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

“§ 12115. Temporary endorsement for vessels procured outside the United States

“(a) GENERAL AUTHORITY.—The Secretary and the Secretary of State, acting jointly, may provide for the issuance of a certificate of documentation with an appropriate endorsement for a vessel procured outside the United States and meeting the ownership requirements of section 12103 of this title.

“(b) AUTHORIZED ACTIVITY.—Subject to limitations the Secretary may prescribe, a vessel documented under this section may proceed to the United

1 States and engage en route in foreign trade or trade with Guam, American
2 Samoa, Wake, Midway, or Kingman Reef.

3 “(c) APPLICATION OF UNITED STATES JURISDICTION AND LAWS.—A
4 vessel documented under this section is subject to the jurisdiction and laws
5 of the United States. However, if the Secretary considers it to be in the
6 public interest, the Secretary may suspend for a period of not more than
7 6 months the application of a vessel inspection law carried out by the Sec-
8 retary or regulations prescribed under that law.

9 “(d) SURRENDER OF CERTIFICATE.—On the vessel’s arrival in the United
10 States, the certificate of documentation shall be surrendered as provided by
11 regulations prescribed by the Secretary.

12 **“§ 12116. Limited endorsements for Guam, American Samoa,**
13 **and Northern Mariana Islands**

14 “(a) ENDORSEMENTS.—A vessel satisfying the requirements of subsection
15 (b) may be issued—

16 “(1) a coastwise endorsement to engage in the coastwise trade of
17 fisheries products between places in Guam, American Samoa, and the
18 Northern Mariana Islands; or

19 “(2) a fishery endorsement to engage in fishing in the territorial sea
20 and fishery conservation zone adjacent to Guam, American Samoa, and
21 the Northern Mariana Islands.

22 “(b) REQUIREMENTS.—An endorsement may be issued under subsection
23 (a) for a vessel that—

24 “(1) satisfies the requirements of section 12103 of this title;

25 “(2) was not built in the United States, except that for an endorse-
26 ment under subsection (a)(2), the vessel must not have been built or
27 rebuilt in the United States;

28 “(3) is less than 200 gross tons as measured under section 14502
29 of this title, or an alternate tonnage as measured under section 14302
30 of this title as prescribed by the Secretary under section 14104 of this
31 title; and

32 “(4) otherwise qualifies under the laws of the United States to en-
33 gage in the coastwise trade or the fisheries, as the case may be.

34 **“§ 12117. Oil spill response vessels**

35 “(a) REQUIREMENTS.—A coastwise endorsement may be issued for a ves-
36 sel that—

37 “(1) satisfies the requirements for a coastwise endorsement, except
38 for the ownership requirement otherwise applicable without regard to
39 this section;

“(2) is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative that dedicate the vessel to use by the cooperative;

“(3) is at least 50 percent owned by individuals or entities described in section 12103(b) of this title; and

“(4) is to be used only for—

“(i) deploying equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States or the exclusive economic zone; or

“(ii) training exercises to prepare to respond to such a discharge.

“(b) DEEMED OWNED BY CITIZENS.—A vessel satisfying subsection (a) is deemed to be owned only by citizens of the United States under sections 12103, 12132, and 50501 of this title.

“§ 12118. Owners engaged primarily in manufacturing or mineral industry

“(a) DEFINITIONS.—In this section:

“(1) BOWATERS CORPORATION.—The term ‘Bowaters corporation’ means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that—

“(A) the corporation is incorporated under the laws of the United States or a State;

“(B) a majority of the officers and directors of the corporation are individuals who are citizens of the United States;

“(C) at least 90 percent of the employees of the corporation are residents of the United States;

“(D) the corporation is engaged primarily in a manufacturing or mineral industry in the United States;

“(E) the total book value of the vessels owned by the corporation is not more than 10 percent of the total book value of the assets of the corporation; and

“(F) the corporation buys or produces in the United States at least 75 percent of the raw materials used or sold in its operations.

“(2) PARENT.—The term ‘parent’ means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

“(A) is incorporated under the laws of the United States or a State; and

1 “(B) controls, directly or indirectly, at least 50 percent of the
2 voting stock of a Bowaters corporation.

3 “(3) SUBSIDIARY.—The term ‘subsidiary’ means a corporation that
4 has filed a certificate under oath with the Secretary, in the form and
5 at the times prescribed by the Secretary, establishing that the corpora-
6 tion—

7 “(A) is incorporated under the laws of the United States or a
8 State; and

9 “(B) has at least 50 percent of its voting stock controlled, di-
10 rectly or indirectly, by a Bowaters corporation or its parent.

11 “(b) DEEMED CITIZEN.—A Bowaters corporation is deemed to be a citi-
12 zen of the United States for purposes of chapters 121, 551, and 561 and
13 section 80104 of this title.

14 “(c) ISSUANCE OF DOCUMENTATION.—A certificate of documentation and
15 appropriate endorsement may be issued for a vessel that—

16 “(1) is owned by a Bowaters corporation;

17 “(2) was built in the United States; and

18 “(3)(A) is self-propelled and less than 500 gross tons as measured
19 under section 14502 of this title, or an alternate tonnage as measured
20 under section 14302 of this title as prescribed by the Secretary under
21 section 14104 of this title; or

22 “(B) is not self-propelled.

23 “(d) EFFECTS OF DOCUMENTATION.—

24 “(1) IN GENERAL.—Subject to paragraph (2)—

25 “(A) a vessel documented under this section may engage in the
26 coastwise trade; and

27 “(B) the vessel and its owner and master are entitled to the
28 same benefits and are subject to the same requirements and pen-
29 alties as if the vessel were otherwise documented or exempt from
30 documentation under this chapter.

31 “(2) TRANSPORTATION OF PASSENGERS OR MERCHANDISE.—A ves-
32 sel documented under this section may transport passengers or mer-
33 chandise for hire in the coastwise trade only—

34 “(A) as a service for a parent or subsidiary of the corporation
35 owning the vessel; or

36 “(B) when under a demise or bareboat charter, at prevailing
37 rates for use not in the domestic noncontiguous trades, from the
38 corporation owning the vessel to a carrier that—

39 “(i) is subject to jurisdiction under subchapter II of chap-
40 ter 135 of title 49;

1 “(ii) otherwise qualifies as a citizen of the United States
2 under section 50501 of this title; and

3 “(iii) is not owned or controlled, directly or indirectly, by
4 the corporation owning the vessel.

5 “(e) VALIDITY OF CORPORATE CERTIFICATE.—A certificate filed by a
6 corporation under this section remains valid only as long as the corporation
7 continues to satisfy the conditions required of the corporation by this sec-
8 tion. When a corporation no longer satisfies those conditions, the corpora-
9 tion loses its status under this section and immediately shall surrender to
10 the Secretary any documents issued to it based on that status.

11 “(f) PENALTIES.—

12 “(1) FALSIFYING MATERIAL FACT.—If a corporation knowingly fal-
13 sifies a material fact in a certificate filed under subsection (a), the ves-
14 sel (or its value) documented or operated under this section shall be
15 forfeited.

16 “(2) TRANSPORTING MERCHANDISE.—If a vessel transports mer-
17 chandise for hire in violation of this section, the merchandise shall be
18 forfeited to the United States Government.

19 “(3) TRANSPORTING PASSENGERS.—If a vessel transports pas-
20 sengers for hire in violation of this section, the vessel is liable for a
21 penalty of \$200 for each passenger so transported.

22 “(4) REMISSION OR MITIGATION.—A penalty or forfeiture incurred
23 under this subsection may be remitted or mitigated under section
24 2107(b) of this title.

25 **“§ 12119. Owners engaged primarily in leasing or financing**
26 **transactions**

27 “(a) DEFINITIONS.—In this section:

28 “(1) AFFILIATE.—The term ‘affiliate’ means, with respect to any
29 person, any other person that is—

30 “(i) directly or indirectly controlled by, under common control
31 with, or controlling that person; or

32 “(ii) named as being part of the same consolidated group in any
33 report or other document submitted to the United States Securi-
34 ties and Exchange Commission or the Internal Revenue Service.

35 “(2) CARGO.—The term ‘cargo’ does not include cargo to which title
36 is held for non-commercial reasons and primarily for the purpose of
37 evading the requirements of subsection (c)(3).

38 “(3) OIL.—The term ‘oil’ has the meaning given that term in section
39 2101(20) of this title.

40 “(4) PASSIVE INVESTMENT.—The term ‘passive investment’ means
41 an investment in which neither the investor nor any affiliate of the in-

vestor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

“(5) QUALIFIED PROPRIETARY CARGO.—The term ‘qualified proprietary cargo’ means—

“(A) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that submits to the Secretary an application or annual certification under subsection (c)(3), or by an affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on a vessel owned by that person;

“(B) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person that submits to the Secretary an application or an annual certification under subsection (c)(3), or by an affiliate of that person, but which is carried in coastwise trade by a vessel owned by that person and which is part of an arrangement in which vessels owned by that person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by that person, or by an affiliate of that person, is carried in coastwise trade on one or more other vessels, not owned by that person, or by an affiliate of that person, if the other vessel or vessels are also part of the same arrangement;

“(C) in the case of a towing vessel associated with a non-self-propelled tank vessel where both vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that owns both the towing vessel and the non-self-propelled tank vessel, or any United States affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on either of those vessels; or

“(D) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

“(i) was delivered by the builder of the vessel to the owner of the vessel after December 31, 1999; and

“(ii) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on the vessel liq-

1 uefied natural gas or unrefined petroleum beneficially owned
2 by the owner of the vessel, or an affiliate of the owner, from
3 Alaska to the continental United States.

4 “(6) UNITED STATES AFFILIATE.—The term ‘United States affiliate’
5 means, with respect to any person, an affiliate the principal place of
6 business of which is located in the United States.

7 “(b) REQUIREMENTS.—A coastwise endorsement may be issued for a ves-
8 sel if—

9 “(1) the vessel satisfies the requirements for a coastwise endorse-
10 ment, except for the ownership requirement otherwise applicable with-
11 out regard to this section;

12 “(2) the person that owns the vessel (or, if the vessel is owned by
13 a trust or similar arrangement, the beneficiary of the trust or similar
14 arrangement) meets the requirements of subsection (c);

15 “(3) the vessel is under a demise charter to a person that certifies
16 to the Secretary that the person is a citizen of the United States under
17 section 50501 of this title for engaging in the coastwise trade; and

18 “(4) the demise charter is for a period of at least 3 years or a short-
19 er period as may be prescribed by the Secretary.

20 “(c) OWNERSHIP CERTIFICATION.—

21 “(1) IN GENERAL.—A person meets the requirements of this sub-
22 section if the person transmits to the Secretary each year the certifi-
23 cation required by paragraph (2) or (3) with respect to a vessel.

24 “(2) INVESTMENT CERTIFICATION.—To meet the certification re-
25 quirement of this paragraph, a person shall certify that it—

26 “(A) is a leasing company, bank, or financial institution;

27 “(B) owns, or holds the beneficial interest in, the vessel solely
28 as a passive investment;

29 “(C) does not operate any vessel for hire and is not an affiliate
30 of any person that operates any vessel for hire; and

31 “(D) is independent from, and not an affiliate of, any charterer
32 of the vessel or any other person that has the right, directly or
33 indirectly, to control or direct the movement or use of the vessel.

34 “(3) CERTAIN TANK VESSELS.—

35 “(A) IN GENERAL.—To meet the certification requirement of
36 this paragraph, a person shall certify that—

37 “(i) the aggregate book value of the vessels owned by the
38 person and United States affiliates of the person does not ex-
39 ceed 10 percent of the aggregate book value of all assets
40 owned by the person and its United States affiliates;

“(ii) not more than 10 percent of the aggregate revenues of the person and its United States affiliates is derived from the ownership, operation, or management of vessels;

“(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement is qualified proprietary cargo;

“(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement consists of oil, petroleum products, petrochemicals, or liquified natural gas;

“(v) no vessel owned by the person or any of its United States affiliates and documented with a coastwise endorsement carries molten sulphur; and

“(vi) the person owned one or more vessels documented under this section as of August ____, 2004.

“(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

“(i) a tank vessel having a tonnage of at least 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

“(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where both vessels function as a single self-propelled vessel.

“(d) FILING OF DEMISE CHARTER.—The demise charter and any amendments to the charter shall be filed with the certification required by subsection (b)(3) or within 10 days after filing an amendment to the charter. The charter and amendments shall be made available to the public.

“(e) CONTINUATION OF ENDORSEMENT AFTER TERMINATION OF CHARTER.—When a charter required by subsection (b)(3) is terminated for default by the charterer, the Secretary may continue the coastwise endorsement for not more than 6 months on terms and conditions the Secretary may prescribe.

“(f) DEEMED OWNED BY CITIZENS.—A vessel satisfying the requirements of this section is deemed to be owned only by citizens of the United States under sections 12103 and 50501 of this title.

1 **“§ 12120. Liquified gas tankers**

2 “Notwithstanding any agreement with the United States Government, the
3 Secretary may issue a certificate of documentation with a coastwise endorse-
4 ment for a vessel to transport liquified natural gas or liquified petroleum
5 gas to Puerto Rico from other ports in the United States, if the vessel—

6 “(1) is a foreign built vessel that was built before October 19, 1996;
7 or

8 “(2) was documented under this chapter before that date, even if the
9 vessel is placed under a foreign registry and subsequently redocu-
10 mented under this chapter for operation under this section.

11 **“§ 12121. Small passenger vessels and uninspected pas-**
12 **senger vessels**

13 “(a) DEFINITIONS.—In this section:

14 “(1) ELIGIBLE VESSEL.—The term ‘eligible vessel’ means a vessel
15 that—

16 “(A) was not built in the United States and is at least 3 years
17 old; or

18 “(B) if rebuilt, was rebuilt outside the United States at least
19 3 years before the certificate requested under subsection (b) would
20 take effect.

21 “(2) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL;
22 PASSENGER FOR HIRE.—The terms ‘small passenger vessel’, ‘un-
23 inspected passenger vessel’, and ‘passenger for hire’ have the meaning
24 given those terms in section 2101 of this title.

25 “(b) ISSUANCE OF CERTIFICATE AND ENDORSEMENT.—Notwithstanding
26 sections 12112, 12113, 55102, and 55103 of this title, the Secretary may
27 issue a certificate of documentation with an appropriate endorsement for
28 employment in the coastwise trade as a small passenger vessel or an un-
29 inspected passenger vessel in the case of an eligible vessel authorized to
30 carry no more than 12 passengers for hire if the Secretary of Transpor-
31 tation, after notice and an opportunity for public comment, determines that
32 the employment of the vessel in the coastwise trade will not adversely af-
33 fect—

34 “(1) United States vessel builders; or

35 “(2) the coastwise trade business of any person that employs vessels
36 built in the United States in that business.

37 “(c) REVOCATION.—

38 “(1) FOR FRAUD.—The Secretary shall revoke a certificate or en-
39 dorsement issued under subsection (b) if the Secretary of Transpor-
40 tation, after notice and an opportunity for a hearing, determines that
41 the certificate or endorsement was obtained by fraud.

1 “(2) OTHER PROVISIONS NOT AFFECTED.—Paragraph (1) does not
2 affect—

3 “(A) the criminal prohibition on fraud and false statements in
4 section 1001 of title 18; or

5 “(B) any other authority of the Secretary to revoke a certificate
6 or endorsement issued under subsection (b).

7 “SUBCHAPTER III—MISCELLANEOUS

8 **“§ 12131. Command of documented vessels**

9 “(a) IN GENERAL.—Except as provided in subsection (b), a documented
10 vessel may be placed under the command only of a citizen of the United
11 States.

12 “(b) EXCEPTIONS.—Subsection (a) does not apply to—

13 “(1) a vessel with only a recreational endorsement; or

14 “(2) an unmanned barge operating outside of the territorial waters
15 of the United States.

16 **“§ 12132. Loss of coastwise trade privileges**

17 “A vessel having a lawful right to engage in the coastwise trade is perma-
18 nently prohibited from engaging in the coastwise trade if the vessel is—

19 “(1)(A) more than 200 gross tons as measured under chapter 143
20 of this title; and

21 “(B) sold to a person not a citizen of the United States or docu-
22 mented under the laws of a foreign country; or

23 “(2) rebuilt outside the United States.

24 **“§ 12133. Duty to carry certificate on vessel and allow exam-
25 ination**

26 “(a) DUTY TO CARRY.—The certificate of documentation of a vessel shall
27 be carried on the vessel unless the vessel is exempt by regulation from car-
28 rying the certificate.

29 “(b) AVAILABILITY.—The owner or individual in charge of a vessel re-
30 quired to carry its certificate of documentation shall make the certificate
31 available for examination at the request of an officer enforcing the revenue
32 laws or as otherwise required by law or regulation.

33 “(c) CRIMINAL PENALTY.—A person willfully violating subsection (b)
34 shall be fined under title 18, imprisoned for not more than one year, or
35 both.

36 **“§ 12134. Evidentiary uses of documentation**

37 “A certificate of documentation is—

38 “(1) conclusive evidence of nationality for international purposes, but
39 not in a proceeding conducted under the laws of the United States;

40 “(2) conclusive evidence of qualification to engage in a specified
41 trade; and

1 “(3) not conclusive evidence of ownership in a proceeding in which
2 ownership is in issue.

3 **“§ 12135. Invalidation of certificates of documentation**

4 “A certificate of documentation or an endorsement on the certificate is
5 invalid if the vessel for which it is issued—

6 “(1) no longer meets the requirements of this chapter and regula-
7 tions prescribed under this chapter applicable to the certificate or en-
8 dorsement; or

9 “(2) is placed under the command of an individual not a citizen of
10 the United States in violation of section 12131 of this title.

11 **“§ 12136. Surrender of certificates of documentation**

12 “(a) SURRENDER.—An invalid certificate of documentation, or a certifi-
13 cate with an invalid endorsement, shall be surrendered as provided by regu-
14 lations prescribed by the Secretary.

15 “(b) CONDITIONS FOR SURRENDER.—

16 “(1) VESSELS OVER 1,000 TONS.—The Secretary may condition ap-
17 proval of the surrender of the certificate of documentation for a vessel
18 over 1,000 gross tons.

19 “(2) VESSELS COVERED BY MORTGAGE.—The Secretary may ap-
20 prove the surrender of the certificate of documentation of a vessel cov-
21 ered by a mortgage filed or recorded under section 31321 of this title
22 only if the mortgagee consents.

23 “(3) NOTICE OF LIEN.—The Secretary may not refuse to approve
24 the surrender of the certificate of documentation for a vessel solely on
25 the basis that a notice of a claim of a lien on the vessel has been re-
26 corded under section 31343(a) of this title.

27 “(c) CONTINUED APPLICATION OF CERTAIN LAWS.—

28 “(1) IN GENERAL.—Notwithstanding subsection (a), until the certifi-
29 cate of documentation is surrendered with the approval of the Sec-
30 retary, a documented vessel is deemed to continue to be documented
31 under this chapter for purposes of—

32 “(A) chapter 313 of this title for an instrument filed or re-
33 corded before the date of invalidation and an assignment after
34 that date;

35 “(B) sections 56102 and 56103(a)(2) and chapter 563 of this
36 title; and

37 “(C) any other law of the United States identified by the Sec-
38 retary by regulation as a law to which the Secretary applies this
39 subsection.

40 “(2) EXCEPTION.—This subsection does not apply when a vessel is
41 forfeited or sold by order of a district court of the United States.

1 **“§ 12137. Recording of vessels built in the United States**

2 “The Secretary may provide for recording and certifying information
3 about vessels built in the United States that the Secretary considers to be
4 in the public interest.

5 **“§ 12138. List of documented vessels**

6 “(a) IN GENERAL.—The Secretary shall publish periodically a list of all
7 documented vessels and information about those vessels that the Secretary
8 considers pertinent or useful. The list shall contain a notation clearly indi-
9 cating all vessels classed by the American Bureau of Shipping.

10 “(b) VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.—

11 “(1) IN GENERAL.—The Secretary of Transportation shall develop,
12 maintain, and periodically update an inventory of vessels that are docu-
13 mented under this chapter, are at least 200 feet in length, and have
14 the capability to lay, maintain, or repair a submarine cable, without re-
15 gard to whether a particular vessel is classed as a cable ship or cable
16 vessel.

17 “(2) INFORMATION TO BE INCLUDED.—For each vessel listed in the
18 inventory, the Secretary of Transportation shall include in the inven-
19 tory—

20 “(A) the name, length, beam, depth, and other distinguishing
21 characteristics of the vessel;

22 “(B) the abilities and limitations of the vessel with respect to
23 laying, maintaining, and repairing a submarine cable; and

24 “(C) the name and address of the person to whom inquiries re-
25 garding the vessel may be made.

26 “(3) PUBLICATION.—The Secretary of Transportation shall publish
27 in the Federal Register an updated inventory every 6 months.

28 **“§ 12139. Reports**

29 “(a) IN GENERAL.—To ensure compliance with this chapter and laws
30 governing the qualifications of vessels to engage in the coastwise trade and
31 the fisheries, the Secretary may require owners, masters, and charterers of
32 documented vessels to submit reports in any reasonable form and manner
33 the Secretary may prescribe.

34 “(b) VESSELS REBUILT OUTSIDE UNITED STATES.—

35 “(1) IN GENERAL.—Under regulations prescribed by the Secretary,
36 if a documented vessel is rebuilt outside the United States and the ves-
37 sel exceeds the tonnage specified in paragraph (2), the owner or master
38 shall submit a report of the rebuilding to the Secretary.

39 “(2) TONNAGE.—The tonnage referred to in paragraph (1) is—

40 “(A) 500 gross tons as measured under section 14502 of this
41 title; or

“(B) an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

“(3) TIMING OF SUBMISSION.—If the rebuilding is completed in the United States, the report shall be submitted when the rebuilding is completed. If the rebuilding is completed outside the United States, the report shall be submitted when the vessel first arrives at a port in the customs territory of the United States.

“SUBCHAPTER IV—PENALTIES

“§ 12151. Penalties

“(a) IN GENERAL.—A person that violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than \$10,000. Each day of a continuing violation is a separate violation.

“(b) SEIZURE AND FORFEITURE OF VESSELS.—A vessel and its equipment are liable to seizure by and forfeiture to the Government if—

“(1) the owner of the vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation, about the documentation of the vessel or in applying for documentation of the vessel;

“(2) a certificate of documentation is knowingly and fraudulently used for the vessel;

“(3) the vessel is operated after its endorsement has been denied or revoked under section 12152 of this title;

“(4) the vessel is employed in a trade without an appropriate endorsement;

“(5) the vessel has only a recreational endorsement and is operated other than for pleasure;

“(6) the vessel is a documented vessel and is placed under the command of a person not a citizen of the United States, except as authorized by section 12131(b) of this title; or

“(7) the vessel is rebuilt outside the United States and a report of the rebuilding is not submitted as required by section 12139(b) of this title.

“(c) ENGAGING IN FISHING AFTER FALSIFYING ELIGIBILITY.—In addition to other penalties under this section, the owner of a documented vessel for which a fishery endorsement has been issued is liable to the Government for a civil penalty of not more than \$100,000 for each day the vessel engages in fishing (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) within the exclusive economic zone, if the owner or the representative or agent of the owner

1 knowingly falsified or concealed a material fact, or knowingly made a false
2 statement or representation, about the eligibility of the vessel under section
3 12113(c) or (d) of this title in applying for or applying to renew the fishery
4 endorsement.

5 **“§ 12152. Denial or revocation of endorsement for non-pay-**
6 **ment of civil penalty**

7 “If the owner of a vessel fails to pay a civil penalty imposed by the Sec-
8 retary, the Secretary may deny the issuance or renewal of an endorsement,
9 or revoke the endorsement, on a certificate of documentation issued for the
10 vessel under this chapter.”.